

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

MDS AMERICA, INC.,

Plaintiff/Counter-Defendant,

v.

Case No. 04-72353-DT

MDS INTERNATIONAL, S.A.R.L.,

Defendant/Counter-Plaintiff.

ORDER STAYING CASE IN CONTEMPLATION OF MEDIATION

The court has received motions for summary judgment from both sides, and the court conducted a status conference with counsel in the above-captioned case on December 15, 2005. The court discussed with counsel the possibility that one or the other motion for summary judgment could succeed or that, alternatively, after responses, argument and independent study, the court could conclude that a trial as to at least some issues must be conducted. The court also discussed with counsel the potential benefits of private mediation. Given the underlying issues that separate the parties in this matter, the court believes that, if entered into in good faith, voluntary facilitative mediation is likely to achieve a mutually agreeable resolution to this action. Accordingly, the court will stay all proceedings in this case, including the preparation of response briefs to the pending cross-motions for summary judgment, in order to allow the parties an opportunity to decide whether to enter into private facilitative mediation.

The court agrees to stay this case only upon the condition that the parties seriously and in good faith consider the benefits of mediation. Counsel are therefore ORDERED to instruct their clients forthwith that (1) the court strongly encourages

mediation in this case, and (2) the responsible parties are required to confer with their respective attorney to discuss the benefits of mediation. If the parties agree, they shall continue to discuss between themselves and decide the details of mediation as to method, place and time.

For the reasons stated above, IT IS ORDERED that all proceedings in this matter are hereby STAYED. Counsel are DIRECTED to inform the court by telephone or memorandum directly to chambers, not later than **January 16, 2006**, as to whether they have agreed to enter into private mediation and, if so, the details of that mediation. If the parties do not both elect to proceed to mediation, the court will order an immediate status conference, and will likely order expedited briefing on the motions for summary judgment or, alternatively, discuss the feasibility of a trial on the papers.

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: December 27, 2005

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, December 27, 2005, by electronic and/or ordinary mail.

S/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522